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U.S.D.C. - Atlanta

MAY 15 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HATTEN, Clerk
[Signature]

GLORIA LLOYD, Individually and)
as Administrator of the Estate of)
ARTHUR LLOYD, deceased,)

Plaintiff,)

v.)

SPECIALTY CARE OF)
MARIETTA and KINDRED)
HEALTHCARE, INC.,)

Defendants.)

CIVIL ACTION FILE

NO **1-09-CV-1302**

WSD

NOTICE OF REMOVAL

Notice is hereby given by undersigned counsel that Defendants Kindred Healthcare, Inc. and Kindred Nursing Centers Limited Partnership d/b/a Specialty Care of Marietta, incorrectly identified in the caption to the Complaint for Damages (the "Complaint") as "Specialty Care of Marietta" (collectively, "Defendants"), hereby remove to this Court pursuant to 28 U.S.C. §§ 1441 and 1446 that civil action filed in the Superior Court of Cobb County, Georgia, styled Gloria Lloyd, Individually and as Administrator of the Estate of Arthur Lloyd, deceased v. Specialty Care of Marietta and Kindred Healthcare, Inc., Civil Action

File No. 09-1-03233-18. In support whereof, Defendants show this Court as follows:

1.

Plaintiff commenced this lawsuit by filing the Complaint in the Superior Court of Cobb County, Georgia, Civil Action File No. 09-1-03233-18, which court is located in the Northern District of Georgia, Atlanta Division. True and correct copies of the summons and complaint are attached hereto as Exhibit "A," and constitute the only process, pleadings, and orders that have been filed in this action.

2.

This Notice of Removal is timely as it has been filed within thirty (30) days of the receipt of the initial pleading setting forth the claims for which relief upon which this action is based, such Complaint having been served on Defendant Kindred Nursing Centers Limited Partnership on April 17, 2009.

3.

This Notice of Removal is being filed jointly by all Defendants.

4.

This action arises out of the residency of Plaintiff's husband, Arthur Lloyd, at the long term care facility known as Specialty Care of Marietta. Plaintiff alleges

that Defendants violated federal and state law and regulations in the operation of a nursing home, and that their negligence per se, professional negligence, simple negligence, and breach of contract in the provision of care, treatment, and services proximately caused severe and life threatening illness, pain, suffering, and the death of her husband. (Compl. ¶ 1.) This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, in that this litigation seeks the recovery of special damages for medical and hospital expenses; damages for physical pain and suffering; damages for wrongful death; damages for alleged deceptive trade practices; attorney's fees; and punitive damages. Additionally, there exists complete diversity of citizenship between Plaintiff and Defendants in that:

- (a) Defendant Kindred Healthcare, Inc. is a Delaware corporation with its principal place of business in Louisville, Kentucky;
- (b) Defendant Kindred Nursing Centers Limited Partnership d/b/a Specialty Care of Marietta is a Delaware limited partnership, which is comprised of two partners: Kindred Nursing Centers East, LLC and Kindred Hospitals Limited Partnership.

- (i) Kindred Nursing Centers East, LLC is a Delaware corporation with its principal place of business in Louisville, Kentucky.
- (ii) Kindred Hospitals Limited Partnership is a Delaware limited partnership which itself is comprised of two partners: Kindred Nursing Centers Limited Partnership, which partnership is discussed above, and Kindred Hospitals West, LLC, a Delaware corporation with its principal place of business in Louisville, Kentucky.
- (c) Plaintiff, both in her individual and representative capacity, is a citizen of the State of Georgia.

5.

In accordance with 28 U.S.C. § 1446(d), Defendants will give written notice hereof to Plaintiff and will file a copy of this Notice of Removal with the Clerk of the Superior Court of Cobb County, Georgia.

WHEREFORE, Defendants respectfully request the following relief:

- (1) that the above-referenced action now pending in the Superior Court of Cobb County, Georgia, be removed to the United States District Court for the Northern District of Georgia, Atlanta Division; and

(2) that this action be placed on the docket of this Court for further proceedings, the same as though this action had originally been initiated in this Court.

Respectfully submitted this 15th day of May, 2009.



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